Datatreasury Corporation v. Wells Fargo & Company et al Doc. 418

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

DATATREASURY CORPORATION	§	
	§	
Plaintiff	§	
v.	§	Civil Action No.: 2:06-CV-72
	§	
WELLS FARGO & COMPANY, et al;	§	
	§	
Defendants	§	

DEFENDANTS FIRST CITIZENS BANCSHARES, INC. AND
FIRST CITIZENS BANK & TRUST COMPANY'S STIPULATION

The Court ordered (Docket No. 411) that this case be stayed in its entirety as to U.S. Patent No. 5,910,988 and U.S. Patent No. 6,032,137 (the "Ballard Patents") in light of developments in the ex parte reexamination initiated by First Data Corporation (hereafter "petitioner") of the Ballard Patents. As a required condition of the Court's stay, the Defendants First Citizens BancShares, Inc. and First-Citizens Bank & Trust Company (collectively "Defendants") hereby notify the Court that they accept the following stipulation and the concomitant stay of all proceedings as to the Ballard Patents:

> As a condition of the stay, Defendants may not argue invalidity at trial based on one or more prior art printed publications that were submitted by the petitioner in the reexamination proceedings. However, Defendant will be permitted to rely for obviousness on the combination of a printed publication reference that was submitted by petitioner in the reexamination with prior art that was not so submitted.

Defendants further note that they will work with Plaintiff in this matter to keep the Court apprised of developments in the reexamination which may impact the ordered stay. This stipulation modifies Defendants' stipulation dated November 3, 2006 (Docket No. 342), in light of, and to conform with, the Court's Order (Docket No. 411).

Dockets.Justia.com

Dated: January 18, 2007.

Respectfully submitted,

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ATTORNEYS FOR DEFENDANTS FIRST-CITIZENS BANK & TRUST COMPANY AND FIRST CITIZENS BANCSHARES, INC.

CERTIFICATE OF SERVICE

I certify that on January 18, 2007, all counsel who are deemed to have consented to electronic service are being served with a copy of this document by the Court's Electronic Filing System, pursuant to Local Rule CV-5(a)(3)(A).

/s/ Larry D. Carlson
Larry D. Carlson